

# **RHODE ISLAND INDUSTRIAL FACILITIES CORPORATION**

**August 23, 2012**

## **PUBLIC SESSION**

A meeting of the Board of Directors of the Rhode Island Industrial Facilities Corporation ("RIIFC") was held in public session at the offices of the Rhode Island Economic Development Corporation, 315 Iron Horse Way, Suite 101, Providence, Rhode Island on Thursday, August 23, 2012 beginning at approximately 9:00 a.m. pursuant to a Notice and Agenda duly posted and sent to all members.

Members present and attending the meeting were: Mr. John Ward, Mr. David Piacitelli and Mr. William Parsons. Mr. Ronald Renaud joined the meeting at approximately 9:07 a.m. Mr. Michael Kehew was not present. Also present and attending were Earl F. Queenan, Jr., Treasurer of RIIFC and Mr. Sean Esten, Secretary of RIIFC, Mr. Adam Quinlan and Mr. Daniel Price of RIIFC, Antonio Afonso, Jr., Esquire and Ellen M. Corneau, Esquire Counsel to RIIFC and Mr. Peter Chatillier and Mr. Joseph Spagno from Braver P. C., RIIFC's Auditors. Mr. David Piacitelli, Chairman of the Board called the meeting to order at approximately 9:05 a.m.

### **ACCEPTANCE OF THE MINUTES OF JULY 26, 2012**

The first item to come before the Board was consideration of adoption of the Minutes of the Meeting of the Board of Directors held on July 26, 2012. A motion was made by Mr. Ward to adopt the Minutes of July 26, 2012 as presented, which motion was seconded by Mr. Parsons. Following the motion and second, the motion to accept the Minutes was adopted as follows: Mr. Piacitelli - yes, Mr. Parsons – yes and Mr. Ward - yes.

AUDITED FINANCIAL STATEMENTS FOR THE PERIODS ENDING JUNE 30,  
2011 AND JUNE 30, 2010

Mr. Queenan presented and reviewed with the Board the draft audited Financial Statements for RIIFC for the periods ending June 30, 2011 and June 30, 2010 that had been presented by Braver PC for acceptance by the Board. The Board reviewed the Financial Statements. A motion was made by Mr. Ward to accept the audited Financial Statements, which motion was seconded by Mr. Parsons and adopted as follows: Mr. Piacitelli – yes, Mr. Parsons - yes, Mr. Ward – yes.

OTHER BUSINESS – DISCUSSION OF DIRECTORS AND OFFICERS LIABILITY  
INSURANCE POLICY

Mr. Queenan reviewed with the Board the Directors and Officers liability insurance coverage and options for the upcoming renewal of the Policy. Mr. Queenan briefly described the key elements of the existing policy and the renewal options. After much discussion concerning coverage amounts, deductibles and the feasibility of an insurance policy exclusive to RIIFC, the Board provided a sense of direction to staff to pursue a separate policy with lowest possible deductible. Mr. Queenan advised the Board they were in discussions with insurance brokers now and he would report back to the Board regarding these discussions. There was no further discussion.

FINAL RESOLUTION OF APPROVAL FOR THE ISSUANCE OF UP TO \$2,860,000  
OF TAXABLE BONDS ON BEHALF OF 122 FOUNTAIN STREET LLC

The next item to come before the Board which was moved from Executive Session agenda to Public Session agenda was the consideration of a final Resolution authorizing the issuance of up to \$2,860,000 of taxable Bonds on behalf of 122 Fountain Street LLC (122 Fountain Street LLC Project – Series 2012) and authorizing and

approving the execution and delivery of a lease agreement, assignment of lease agreement and pledged revenues, bond purchase agreement, commitment agreement and other documents and matters in connection therewith.

Mr. Afonso outlined the proposed project at 122 Fountain Street in Providence which had been previously subject to an inducement resolution adopted by the Board of Directors in Executive Session on April 26, 2012. The proposed project involves financing to redevelop a 24,367 square foot (more or less) building into a 60-room full service hotel. Such facility will be leased by 122 Fountain Street LLC as Obligor. RIIFC's right, title and interest in and to the lease will be assigned to Rockland Trust Company, as bond purchaser. Mr. Afonso outlined the structure of and collateral for the transaction, including the Mortgage Insurance Agreement of the Rhode Island Industrial-Recreational Building Authority.

Following a motion by Mr. Ward and a second thereof by Mr. Parsons, discussion ensued among the Board members relative to the project and the financing. Following the foregoing discussion, the Board voted to adopt the resolution attached hereto as Exhibit A and hereby made a part of these Minutes as follows: Mr. Piacitelli - yes, Mr. Parsons - yes, and Mr. Ward - yes. Mr. Renaud had stepped out of the meeting at that time and was not present for the vote.

#### ADJOURNMENT

There being no other business to come before the Board, Mr. Parsons made a motion, which motion was duly seconded by Mr. Renaud to adjourn the meeting at approximately 9:45 a.m., which motion was adopted as follows: Mr. Piacitelli - yes, Mr. Parsons - yes, Mr. Ward - yes and Mr. Renaud - yes.

## **EXHIBIT A**

RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF UP TO \$2,860,000  
ECONOMIC DEVELOPMENT REVENUE BONDS  
(INDUSTRIAL-RECREATIONAL BUILDING AUTHORITY PROGRAM 122  
FOUNTAIN STREET LLC PROJECT) 2012 SERIES  
OF THE RHODE ISLAND INDUSTRIAL FACILITIES CORPORATION  
AND AUTHORIZING AND APPROVING THE EXECUTION AND  
DELIVERY OF A LEASE AGREEMENT, ASSIGNMENT OF LEASE  
AGREEMENT AND PLEDGED REVENUES, BOND PURCHASE AGREEMENT  
AND OTHER DOCUMENTS AND MATTERS IN CONNECTION THEREWITH

WHEREAS, the Rhode Island Industrial Facilities Corporation (the "Issuer") was constituted a public corporation and public instrumentality of the State of Rhode Island (the "State") pursuant to the provisions of Chapter 37.1 of Title 45 of the General Laws of Rhode Island (1956), as amended (the "Act") and is authorized pursuant to the Act (i) to finance the acquisition, equipping and furnishing of one or more projects, including all real and personal property in connection therewith, (ii) to execute agreements of lease, conditional sales contracts, installment sales contracts, loan agreements, mortgages, construction contracts, operation contracts and other contracts and instruments entered into to finance its projects, (iii) to sell, exchange, mortgage, donate and convey any and all of its properties whenever such action is found to be in furtherance of the purposes for which the Issuer was established, and (iv) to issue its bonds and notes and to mortgage and pledge any of its projects or parts thereof as security for such bonds; and

WHEREAS, the Issuer proposes to finance the purchase, renovation, furnishing, improvement and equipping of real property leased or to be leased by 122 Fountain Street LLC or a wholly-owned subsidiary or affiliate thereof (the "Obligor") at

122 Fountain Street, Providence, Rhode Island including, but not limited to, equipment and related furnishings, improvements and equipment to be used by the Obligor ( in Obligor's business operations and for costs associated with bond issuance (such purchase, renovation, furnishing, improvements, equipping and incurring of costs in connection therewith is referred to herein as the "Project") which will be leased to Obligor pursuant to a Lease Agreement dated as of the closing date (the "Lease"); and

WHEREAS, the financing of the Project is authorized under the Act; and

WHEREAS, in order to finance the cost of such Project, the Issuer intends to issue its Economic Development Revenue Bonds (Industrial-Recreational Building Authority Program – 122 Fountain Street LLC Project) - 2012 Series in the principal amount of up to \$2,860,000 (the "Bonds") pursuant to the Act; and

WHEREAS, the Issuer's right, title and interest in and to the Lease, including the Lease itself, will be assigned to Rockland Trust Company or, with the written consent of Issuer, its designee (the "Original Purchaser") pursuant to the Assignment of Lease Agreement and Revenues (the "Assignment") dated as of the closing date to be entered into with the Original Purchaser; and

WHEREAS, to secure the Obligor's payments under the Lease the Issuer and the Obligor will grant a mortgage on the Project and the Premises and a security interest in any fixtures and personal property thereon, and equipment to the Original Purchaser and the IRBA pursuant an Open-End Mortgage Deed, Leasehold Mortgage Security Agreement and Assignment of Leases and Rent dated as of the closing date (the "Mortgage") and pursuant to a Security Agreement dated as of the closing date (the "Security Agreement"); and

WHEREAS, to further secure the payment of the Bonds, the Rhode Island Industrial-Recreational Building Authority ("IRBA") will deliver to the Original Purchaser its Commitment Agreement dated as of the closing date and upon completion of the Project and satisfaction of the terms of the Commitment Agreement, will deliver to the Original Purchaser, a Mortgage Insurance Agreement (the "Mortgage Insurance Agreement") which will be issued to ensure the payments of the principal and interest on the Bonds;

WHEREAS, the obligations of the Obligor under the Lease, the Assignment and the Mortgage Insurance Agreement will be guaranteed by the Obligor, 122 Fountain Investor LLC ("Investor") HMGR Management LLC ("HMGRM") James H. Mitchell and Clay Rockefeller (collectively the "Guarantors") pursuant to a guaranty or guaranties from the Guarantors to the Original Purchaser, the Issuer and the IRBA dated as of the closing date (the "Guaranties").

WHEREAS, the Obligor has submitted to the Issuer, the Original Purchaser and IRBA financial and various other materials in order to enable the Issuer to make the findings set forth in Section 1 of the Act prior to the issuance of the Bonds; and

WHEREAS, the Issuer is now desirous of proceeding with the financing of the furnishing and equipping of the Project; and

WHEREAS, the Original Purchaser has submitted to the Issuer a proposal to purchase the Bonds pursuant to a Bond Purchase Agreement dated as of the closing date (the "Bond Purchase Agreement") to be by and among the Issuer, the Obligor, and the Original Purchaser; and

WHEREAS, there will be prepared in the traditional form, the following documents:

- (a) the Deed;
- (b) the Bill of Sale;
- (c) the Lease;
- (d) the Mortgage;
- (e) the Bond Purchase Agreement;
- (f) the Bonds;
- (g) the Assignment;
- (h) the Security Agreement;
- (i) the Guaranties; and
- (j) the Commitment Agreement with forms of Regulatory Agreement  
and Mortgage Insurance Agreement attached.

NOW, THEREFORE, BE IT RESOLVED BY THE RHODE ISLAND  
INDUSTRIAL FACILITIES CORPORATION AS FOLLOWS:

SECTION 1. It is hereby found and determined that

- (a) The acquisition of the Project will eliminate or prevent  
unemployment, either in whole or in part, in the area in which the Project is to be located;  
and
- (b) The Project is consistent with the definition of "Project" as defined  
in Section 45-37.1-3 of the Rhode Island General Laws; and
- (c) The Project will be leased to the Obligor, a financially responsible  
entity; and

(d) Adequate provision has been or will be made in the Lease, when executed, for the payment of the cost of the purchase, renovation, furnishing, improvement and equipping of the Project and that, under no circumstances, will the State or any municipality or any political subdivision of the State be obligated, directly or indirectly, for the payment of the principal of, premium, if any, or interest on, any obligation issued to finance such purchase, renovation, furnishing, improvement and equipping except as provided in the Mortgage Insurance Agreement; and

(e) Adequate provision has been or will be made in the Lease and other financing agreements related to the Project when executed, for the payment of all costs of operation, maintenance, and upkeep of the Project by the Obligor so that under no circumstances will the State or any municipality or any political subdivision of the State be obligated, directly or indirectly, for the payment of such costs; and

(f) The acquisition of the Project and the proposed financing, operation and use of the Project will aid in the development, growth and prosperity of the State and the municipality in which the Project is located.

SECTION 2. To accomplish the purposes of the Act, the Issuer hereby determines that the Project shall be purchased, renovated, furnished, improved and equipped and installed in the City of Providence, Rhode Island.

SECTION 3. To accomplish the purposes of the Act and to provide for the financing of the cost of the Project, the issuance of the Bonds in one or more series is hereby authorized, subject to the provisions of this Resolution and the Lease. The Bonds shall be dated as provided in the Lease, shall be in a principal amount not to exceed \$2,860,000 and shall be issued as one or more series of registered bonds. The Bonds

shall mature, bear interest at the Interest Rate as calculated in the Bonds, be subject to redemption prior to maturity and bear such other terms as set forth in the Bonds. The form of the Bonds and the provisions for signatures, authentication, payment, prepayment and number shall be as set forth in Exhibit A to the Bond Purchase Agreement.

SECTION 4. The Bonds shall be special obligations of the Issuer payable solely from the revenues or other receipts, funds or moneys of the Issuer pledged therefor under the Lease and the Assignment and the Issuer's faith and credit is pledged only to such extent. The payment of the principal of, interest and premium, if any, on the Bonds, shall be secured by an assignment of certain rights, title and interest of the Issuer in and to the Lease pursuant to the Assignment and by the Mortgage Insurance Agreement (except that the Mortgage Insurance Agreement insures only regularly scheduled principal and interest).

Neither the State nor any municipality thereof (other than the Issuer and IRBA as hereinabove set forth) shall be obligated to pay the principal of, premium, if any, or interest on the Bonds.

Except as set forth in the Mortgage Insurance Agreement, neither the faith and credit nor the taxing power of the State or any municipality thereof shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds.

SECTION 5. The Issuer is hereby authorized to accept the conveyance and transfer of the Project in accordance with the terms of the Lease hereinafter authorized.

SECTION 6. The execution and delivery of the Lease is hereby authorized. The Lease shall be in substantially the form as may be approved by the

Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors, or the Treasurer of the Issuer. The Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer are each, acting singly, hereby authorized to execute, acknowledge and deliver the Lease with such changes, insertions and omissions as may be approved by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer, and the Secretary or the Assistant Secretary of the Issuer are each hereby authorized to affix the seal of the Issuer on the Lease and to attach the same. The execution of the Lease by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer shall be conclusive evidence of such approval.

SECTION 7. The execution and delivery of the Assignment is hereby authorized. The Assignment shall be in substantially the form as may be approved by the Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors, or the Treasurer of the Issuer. The Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer are each, acting singly, hereby authorized to execute, acknowledge and deliver the Assignment with such changes, insertions and omissions as may be approved by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer, and the Secretary or the Assistant Secretary of the Issuer are each hereby authorized to affix the seal of the Issuer on the Assignment and attest the same. The execution of the Assignment by said Executive Director, Chairman of the Board of

Directors, Vice Chairman of the Board of Directors or Treasurer shall be conclusive evidence of such approval.

SECTION 8. The execution and delivery of the Security Agreement is hereby authorized. The Security Agreement shall be substantially in the form as may be approved by the Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer. The Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer are each, acting singly, hereby authorized to execute, acknowledge and deliver the Security Agreement with such changes, insertions and omissions as may be approved by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer, and the Secretary or the Assistant Secretary of the Issuer are each hereby authorized to affix the seal of the Issuer on the Security Agreement and attest the same. The execution of the Security Agreement by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer shall be conclusive evidence of such approval.

SECTION 9. The execution and delivery of the Mortgage is hereby authorized. The Mortgage shall be in substantially the form as may be approved by the Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors, or the Treasurer of the Issuer. The Executive Director, Chairman of the Board of Directors, Vice chairman of the Board of Directors or the Treasurer of the Issuer are each, acting singly, hereby authorized to execute, acknowledge and deliver the Assignment with such changes, insertions and omissions as may be approved by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of

Directors or the Treasurer of the Issuer and the Secretary or the Assistant Secretary of the Issuer are each hereby authorized to affix the seal of the Issuer on the Mortgage and attest same. The execution of the Mortgage by said Executive Director, Chairman of the Board, Vice Chairman of the Board or Treasurer shall be conclusive evidence of such approval.

SECTION 10. The Bonds are hereby authorized to be sold as provided in the Bond Purchase Agreement. The Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer are each, acting singly, hereby authorized to reduce the principal amount of the Bonds to be sold and to alter the maturity dates and prepayment provisions and to alter terms of the Bonds to make the Bonds conform to the Bond Purchase Agreement as the same may be amended by the parties thereto.

SECTION 11. The execution and delivery of the Bond Purchase Agreement are hereby authorized. The Bond Purchase Agreement shall be in substantially the form as may be approved by the Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer. The Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer of the Issuer are each, acting singly, hereby authorized to execute, acknowledge, and deliver the Bond Purchase Agreement with such changes, insertions, and omissions as may be approved by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer, and the Secretary or the Assistant Secretary of the Issuer are each, acting singly, hereby authorized to affix the seal of the Issuer on said Bond Purchase

Agreement, if necessary, and attest the same. The execution of the Bond Purchase Agreement by said Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or Treasurer shall be conclusive evidence of such approval.

SECTION 12. The execution and delivery of the Commitment Agreement are hereby authorized. The Commitment Agreement shall be in substantially the form as may be approved by the Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors, or the Treasurer of the Issuer. The Executive Director, Deputy Director, Vice Chairman or the Treasurer of the Issuer are each, acting singly, hereby authorized to execute, acknowledge and deliver the Commitment Agreement with such changes, insertions, and omissions as may be approved by said Executive Director, Deputy Director, Vice Chairman or Treasurer, and the Secretary or the Assistant Secretary of the Issuer are each, acting singly, hereby authorized to affix the seal of the Issuer on said Commitment Agreement, if necessary, and attest the same. The execution of the Commitment Agreement by said Executive Director, Deputy Director, Vice Chairman shall be conclusive evidence of such approval.

SECTION 13. The Bonds shall be executed in the manner provided in the Bond form and the same shall be delivered to the Original Purchaser.

SECTION 14. All covenants, stipulations, obligations and agreements of the Issuer contained in this Resolution, the Lease, the Bond Purchase Agreement, the Assignment, the Mortgage, the Security Agreement and the Commitment Agreement shall be deemed to be the covenants, stipulations, obligations and agreements of the Issuer to the full extent authorized or permitted by law, and such covenants, stipulations,

obligations and agreements shall be transferred by and in accordance with law. Except as otherwise provided in this Resolution, all rights, powers and privileges conferred and duties and liabilities imposed upon the Issuer or the members thereof by the provisions of this Resolution, the Lease, the Bond Purchase Agreement, the Assignment, the Mortgage, the Security Agreement and the Commitment Agreement shall be exercised or performed by the Issuer or by such members, officers, board or body as may be required by law to exercise such powers and to perform such duties.

SECTION 15. The proper officers of the Issuer are hereby further directed to proceed to cause the proceeds of the sale of the Bonds to be disbursed as provided in the Lease for the financing of the acquisition of the Project.

SECTION 16. The Issuer hereby consents to the execution and delivery of such other documents and instruments necessary or desirable for the implementation of the purposes of this resolution or in connection with the issuance of the Bonds. The Issuer hereby consents to revisions and amendments to the documents referenced herein to the extent such do not substantially alter any of the foregoing and such would not be adverse to the interests of the Issuer and provided further that the Executive Director, Chairman of the Board of Directors, Vice Chairman of the Board of Directors or the Treasurer, acting singly, be and each hereby is authorized and empowered to execute and deliver such documents or instruments in accordance with this Section.

SECTION 17. This Resolution shall take effect upon passage.

DATED: August 23, 2012

SECRETARY'S CERTIFICATE

I, Sean Esten, Secretary of the Rhode Island Industrial Facilities Corporation, hereby certify that attached hereto is a true and accurate copy of Minutes of the Meeting of the Board of Directors of the Rhode Island Industrial Facilities Corporation held on August 23, 2012. These Minutes were approved by the Board of Directors at the meeting held on \_\_\_\_\_.

/s/ Sean Esten  
Sean Esten, Secretary